

ARTICLE 11

TELECOMMUNICATIONS ORDINANCE

PART 1 11-100 PURPOSE

11-101 **Purpose.** The purpose of this ordinance is to establish the general guidelines for the site of personal wireless facilities, towers and antennas. The goals are:

- (1) Establish a hierarchy in the type, location and procedures for personal wireless facilities, telecommunication towers and facilities;
- (2) The locations of personal wireless facilities and telecommunication towers, in excess of 80 feet, are permissible only when it is technically justified due to unique environmental and terrain features and technological constraints, which preclude personal wireless service within the height standards;
- (3) The joint use of new and existing telecommunication towers and facilities should be encouraged;
- (4) The location of personal wireless facilities, with the exception of lattice towers and guyed towers, will be allowed in all zoning district categories, subject to specific siting and design guidelines;
- (5) The users of telecommunications towers and antennas should locate them, to the extent possible, in areas where the adverse impacts on the community are minimal;
- (6) The users of personal wireless facilities, telecommunication towers and antennas should configure them in a way that minimizes the adverse impacts and visibility of these facilities;
- (7) To promote and maintain the following order of preference for location, siting and design:
 - Location. The most preferred areas for personal wireless service facilities are those that have concentrations of employment and mature tree stands. The least preferred areas for personal wireless service facilities are in existing residential areas or natural resource areas.
 - Siting. The most preferred siting for personal wireless service facilities are on existing structures where the facilities would not be highly visible and within trees with only the antenna arrays above the tree tops. The least preferred sittings are in open fields or areas, or on highly visible rooftops.

- The most preferred design for personal wireless service facilities will be on the shortest possible mount with dual-polarization or omnidirectional antennas. Monopoles with triangular platforms are next in preference, while guyed towers and lattice towers are strongly discouraged.

Definition. Telecommunication Use and/or Structure: A use provided by or a structure utilized by a public service utility or commercial public telecommunications service under the jurisdiction of the Virginia State Corporation Commission and/or licensed by the Federal Communications Commission to provide commercial public telecommunications services.

A telecommunications structure may include a tower, monopole, and other antenna support structure or equipment buildings. Telecommunications use and/or structure does not include non-commercial applications, such as amateur radio operations. Amateur radio towers are not “existing structures” for the purposes of Section 11-102.1.a. Telecommunications use and/or structure does not include those uses or structures that are accessory to and solely used by an individual business.

- a. Antenna: any structure or devise used to collect or radiate electromagnetic waves, including both directional antennas, such as panels and microwave dishes, and omnidirectional antennas, such as whips and satellite dishes, but not including satellite earth stations.
- b. Monopole: a single, self-supporting pole type structure, tapering from base to top and supporting a fixture designed to hold one or more antennas. A monopole shall not be deemed a transmission tower.
- c. Transmission Tower. A lattice type structure, guyed or self-supporting, used to support antennas. Also called a communication tower or radio. New construction of lattice towers and guyed towers is strongly discouraged for personal wireless service facilities.
- d. Commercial Mobile Services. These will include the following five services:
 - Cellular;
 - Personal Communications Services (PCS);
 - Paging;
 - Specialized Mobile Radio (SMR); and
 - Enhanced Specialized Mobile Radio (ESMR).
- e. Personal Wireless Service Facilities. These are facilities that support personal wireless services and shall include:

- A mount, often a pole, a roof or a wall.
 - A base station, including equipment shelter or equipment cabinets.
 - Antenna(s), usually in an array, but also possible as a single unit.
- f. Mounts. The following are mounts for personal wireless facilities:
- Poles, including monopoles, utility poles and masts.
 - Roofs, either of a building or a roofed structure, such as a water tank.
 - Wall, either of a building or some other structure.
- g. Height. When referring to a tower or other structure, the distance measured from the ground level to the highest point on the tower or other structure, even if the highest point is an antenna.

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Telecommunications Use And/Or Structures. The following performance standards shall be applied to telecommunication uses and/or structures, including amateur radio antennas.

1. **Antennas.** Structure mounted and roof top mounted antennas and related unmanned equipment may be developed subject to the performance standards below to the extent permitted by right in the specified zoning district.
 - a. Antennas and related unmanned equipment are permitted by-right on an existing telecommunication monopole, tower or structure, with no increase in height, in all zoning districts subject to the performance standards outlined in this section. Increasing the height of an existing structure for a telecommunication facility must comply with the special exception process and zoning district locational requirements outlined in Section 11-102.2.a.
 - b. Notwithstanding the height requirements in Sections 11-102.2.c and 11-102.3, antennas and related unmanned equipment are permitted in all zoning districts on buildings and structures owned or controlled by a public or quasi-public use, e.g., a water tower, or fire and/or rescue company.
 - c. Such antennas and related equipment may exceed the maximum building height limitations, provided the use is in accordance with the development criteria herein.

- d. When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility from public views.
 - e. Personal wireless facilities which are side-mounted on a wall of a building or a structure shall blend with the existing building's architecture, and the panels shall be painted or shielded with material consistent with the design features and materials of the building.
 - f. Directional or panel antennas shall be of a material or color, which matches the exterior of the building or structure.
 - g. No commercial advertising shall be allowed on any antenna.
 - h. Signals or lights or illumination shall not be permitted on any antenna, unless required by Federal Communications Commission (FCC), the Federal Aviation Administration (FAA), State or Federal authorities, or the County.
 - i. The related unmanned equipment structure(s) shall not contain more than 500 square feet of total gross floor area per user on each site. Structures shall not exceed 12 feet in height. The structure shall be of a material or color, which matches the exterior of the building or structure.
 - j. If the equipment structure is located on the roof of a building, the area of the equipment and structures shall not occupy more than twenty-five (25) percent of the roof area.
2. **Personal Wireless Facilities.** These facilities are allowed in all zoning district categories by right, subject to meeting the following performance criteria. The applicant shall file a site plan with supporting documentation adequate to demonstrate that the following standards have been met:
- a. Location. Any new personal wireless facility shall be located in areas that are:
 - (1) 1,000 feet or more from an adjoining property's existing residential unit; or
 - (2) 300 feet or more from an adjoining property's existing residential unit, when the facility is centered and surrounded by preserved woodland with a minimum radius depth of 100 feet;

- (3) 100 feet from the public highway, street or road, when the facility is centered and surrounded by preserved woodland with a minimum radius depth of 100 feet;
 - (4) 5,000 feet from a federal, state or county park or wildlife management area. For purposes of this section, the term “wildlife management area” shall mean the Chester Phelps Wildlife Management Area and the G. Richard Thompson Wildlife Management Area, or any other geographical area within the county designated by the Commonwealth of Virginia as a wildlife management area; or
 - (5) On a County, Fauquier County Water and Sanitation Authority or fire and rescue company site:
 - The personal wireless facility shall not interfere with any signal from existing equipment of the primary user; and
 - The setback provisions of this ordinance shall not apply.
 - (6) Poles shall not be located along ridgelines, but downslope from the top of ridgelines, to protect views of the County mountains.
- b. Siting. Any new personal wireless communications facility shall be placed in sites that are:
- (1) Surrounded by wooded areas for at least 100 feet on all sides; or
 - (2) On existing buildings when concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads; or
 - (3) On existing telecommunication structures, including already constructed or permitted guyed towers and lattice towers; or
 - (4) Within a silo, up to eighty (80) feet in height, built in whole or part to house such facilities, when, in the opinion of the Director of Community Development, the silo is integrated as an accessory part of an existing barn and farm complex and consistent with the numbers, dimensions, and aesthetics of silos in the farming community, but the number of such stealth silos at the farm shall not exceed two. Additional stealth silos may be authorized by special exception; and

- (5) Existing trees within 200 feet of any facility shall not be removed, except as may be authorized to permit construction of the facility and installation of vehicular access.
- c. Design. New facilities shall meet the following criteria:
- (1) Constructed no higher than eighty (80) feet from ground level to the highest part of the personal wireless facility, including all antennas;
 - (2) Equipped with dual-polarization or omnidirectional antennas, or another antenna alternative identified at site plan, which would be more efficient at the proposed location;
 - (3) Co-location is permitted on existing structures and telecommunication towers;
 - (4) Surrounded by a six (6) foot or higher security barrier, including a locked gate, for a ground-mounted pole and/or base station. For camouflaged facilities (e.g., a silo, with all components located inside the structure), an applicant can request this requirement be waived if all components are secured internally within the structure;
 - (5) Antennas: All antennas shall be of a material or color that matches the exterior of the building or structure;
 - (6) No commercial advertising shall be allowed on any portion of the facility;
 - (7) Signals or lights or illumination shall not be permitted on any portion of the facility, unless required by the Federal Communications Commission (FCC), the Federal Aviation Administration (FAA), State or Federal authorities, or the County, except for security lighting at the base station (100-watt);
 - (8) Fall zone criteria contained herein shall be met.
 - (9) Equipment shelters and cabinets:
 - Shall be designed to be architecturally consistent, with respect to materials and appearance, to the buildings within the area of the facility;

- If mounted on a rooftop, the equipment shall be concealed or camouflaged so that the shelter or cabinet either is not visible at grade or appears to be part of the structure.

- (10) Any personal wireless facility located on, within or near a historic site, shall not alter the character defining features, distinctive construction methods, or original materials of the site.

3. **Transmission Towers.** New lattice towers and guyed towers are excluded from the following districts: RR-2, R-1, R-2, R-3, R-4, TH, GA, MDP, PRD, PDMU and V categories.

Lattice and guyed towers are discouraged, but are permissible uses at heights greater than 80 feet as a special exception and only under the

circumstances outlined in Section 11-101(2) and this section. Lattice towers, guyed towers, monopoles and related unmanned equipment structure(s) may be developed as a special exception use, subject to the following criteria and guidelines:

- a. **Zoning Application Category.** New personal wireless facilities which cannot achieve the standards in Section 11-102.2 shall require special exception approval, subject to findings of fact based on the following criteria:
 - **Location:** Due to topography, forested areas, and floodplain barriers, environmental factors provide, to an equal degree, adequate buffer and camouflaging to reduce the 1,000 foot setback from a residential unit;
 - **Siting:** A new personal wireless service facility may be a pole that is sited outside of existing trees, or in an area surrounded by less than 100 feet of trees in all directions, if the design is mitigated or camouflaged in such a way to be less visible than if it were in the trees;
 - **Design:** A new personal wireless service facility may be higher than 80 feet, provided that the omni-directional or dual-polarization antennas are no higher than 10 feet above the average tree top height; or
 - **Special Circumstances:** A telecommunication tower facility up to 120 feet in height is permissible upon technical demonstration that environmental and topographical constraints, as well as available technology used, cannot provide acceptable service at a lower height. Such a facility needs to be designed to accommodate co-location; or

With the exception of emergency communication tower facilities, a personal wireless or telecommunication facility proposed in excess of 120 feet in height is an application of last resort. The applicant/carrier must technically justify that: (a) all existing structures, site and height alternatives have been exhausted; and (b) the facility proposed is at the minimum height, based on the best available technology, to adjust to the identified environmental and topographical constraints, for the established service carrier, and without the site at the requested height, service cannot be provided.

The applicant must submit, prior to special exception application, any telecommunication facility proposal, greater than 120 feet in height, to the Architectural Review Board (ARB) for review and recommendation. Its application review will focus on Sections 11-102.3.a (location and siting) and 11-102.3.b.14 (assessment of historic resources and Scenic Byways impacts), as well as the Comprehensive

Plan. ARB recommendations shall be transmitted to the Community Development Director no later than 30 days after its scheduled meeting; otherwise, it will be deemed as a recommendation for approval.

Proposed monopole, lattice and guyed towers greater than 80 feet in height shall be located only in the RA, RC, C-1, C-2, C-3, I-1, I-2, CV or the PCID Zoning Districts. The performance standards are listed in Sections 11-102.2, 11-102.2.b and 11-102.2.c.

- b. General Performance Criteria: All personal wireless or telecommunication facilities, whether permitted by right or permissible with the approval of a special exception or special permit application, shall be subject to the following submittal standards and criteria:
 - (1) Before proceeding to the zoning/building permit phase, new telecommunications towers and facilities are subject to the County site plan review and approval process.
 - (2) The proposed telecommunication tower or monopole, and associated uses and equipment shelters, shall be compatible with development in the vicinity with regards to the setting, color, lighting, topography, materials and architecture. In addition, the facility should be located in the interior of the property, and areas of existing vegetation, if applicable, shall be used to screen the facility.

- (3) New telecommunication facilities greater than 80 feet in height shall be designed to accommodate co-location, complete with the engineering report attesting to that capacity, unless the Applicant is able to certify:
- (a) Doing so would create an unnecessary visual impact on the surrounding area; or
 - (b) No additional need is anticipated for any other potential user in the vicinity; or
 - (c) There is some valid economic, technological or physical justification as to why collocation is not possible.

The applicant shall identify the conditions under which future collocation by other service providers is permitted.

- (4) The height of new towers shall be limited based on technological need, type of facility location, and/or required permit approval.
- (5) Satellite and microwave dishes attached to towers and monopoles shall not exceed six (6) feet in diameter.
- (6) Any telecommunication facility and antenna located in a district or immediately adjacent to a district permitting residences shall be located to a height that is equal to or less than the distance from the base of the antenna, tower or monopole to the closest property line, (1) one foot setback for each (1) one foot of facility height. Within and adjacent to districts not allowing residences, telecommunication towers or monopoles shall not be located any closer than one (1) foot for every five (5) feet in height to any property line. Associated structures and buildings, in both instances, may be constructed within the setback areas of the tower or monopole, however, they must meet all setback requirements for primary structures for the specific zoning district in which they are located.
- (7) Unmanned equipment structure(s) shall not contain more than 500 square feet of total gross floor area per telecommunications provider on each site. Structures shall not exceed 12 feet in height.

- (8) Unless otherwise required by the Federal Communications Commission or the Federal Aviation Administration, towers and monopoles shall blend with the background.
- (9) No signals or lights or illumination shall be permitted on a tower or monopole, unless required by the Federal Communications Commission, the Federal Aviation Administration, State or Federal authorities, or the County. These structures must either maintain a galvanized steel finish, subject to any applicable standards of the FAA, or be painted a neutral color to reduce visual impact.
- (10) No commercial advertising or signs shall be allowed on a tower or associated structures.
- (11) No tower or monopole shall be located within a County designated historic district.
- (12) Special exception conditions for approval, established by the Board of Supervisors, may include reasonable limitations on the time period upon which the commercial telecommunications use(s) cease, before the tower or monopole will be required to be removed. Removal is subject to the terms identified in 11-107.2.

The site shall be restored as closely as possible to its original condition.

- (13) Applicants for any commercial public telecommunication facility shall demonstrate that they have complied with applicable regulations of the FCC and the FAA.

A finding from the FAA that the proposed facility is not a hazard or obstruction to public and private aviation fields is necessary prior to the issuance of a zoning permit. Such a finding is required, if a proposed telecommunications facility is higher than 199 feet or within five (5) miles of the property boundary of the Warrenton-Fauquier Airport.

- (14) When locating on Fauquier County Water and Sanitation Authority, or fire and/or rescue company site:
1) the telecommunication equipment shall not interfere with the existing equipment of the primary use; and 2) the setback provisions of Section 11-102.2.b(6) shall not apply.

In addition, the landscaping/buffering provisions of the ordinance may be reduced or waived if the site has been developed in accordance with Sections 11-103 and 11-104.

Applicants proposing a new telecommunication tower or monopole within one (1) mile of a County designated historic district, historic resources designated within the Comprehensive Plan, or a Virginia Byway if a telecommunication facility is proposed on a property listed on the National Register of Historic Places, shall submit a minimum of three (3) visual simulations and written justification as to why the facility could not be sited elsewhere.

- (15) Telecommunication towers or monopoles shall not be located along ridge lines, but downslope from the top of ridge lines, to protect views of the County mountains.
- (16) Applicants shall submit documentation, in written and graphic form regarding the service area to be provided by the proposed telecommunication tower or monopole. This includes propagation maps demonstrating that these facilities, with collocation capabilities, are no higher in elevation than necessary.
- (17) An application must include a licensed carrier either as an applicant or co-applicant.

c. Additional Submission Requirements. In addition to Section 5-011.II, The following additional information shall be submitted by applicants for towers or monopoles which require special exception or special permit approval:

- (1) A map showing the telecommunication system of which the proposed use will be an integral part, together with a written statement outlining the functional relationship of the proposed facility use to the utility system.
- (2) A statement, prepared by a certified engineer, giving the basic reasons for selecting the particular site as the location of the proposed facility and certifying that the proposed use will meet the performance standards of the district in which located.

- (3) Photo imagery or other visual simulation of the proposed telecommunication tower or monopole must be shown with the existing conditions of the site. This simulation shall be provided from a minimum of three (3) perspectives. The applicant shall address how the facility can be designed to mitigate the visual impact on area residents, facilities, and roads.

More specifically, a sight line presentation must be presented. A sight line shall be drawn from the three closest residential units included in the vicinity plan to the highest visible point on the personal wireless facility. If there are no residential units in the mandatory setback distance, reference 11-102.2a (1) and (b), the public rights-of-way will be used.

Each sight line shall be depicted in profile, drawn at 1 inch equals 40 feet. The profiles shall show all intervening tree masses and buildings. In the event there is only 1 or 2 residential buildings on the vicinity plan, there shall be at least two sight lines from the closest habitable structures if any.

Photographs: (1) 4 x 6 inch photograph from three perspectives demonstrating existing conditions, one sight line from each residential unit; (2) photosimulation from the same three perspectives with the proposed personal wireless facility included. If there are no residential units in the project area, then views shall be from the public rights-of-way.

- (4) Except for areas where permitted by right, an applicant for the proposed telecommunication facility must demonstrate that an antenna location on an existing facility is not feasible.

The County's objective is that no new tower/monopole shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Board of Supervisors that no existing tower, monopole or structure can accommodate the applicant's proposed antenna.

The applicant shall evaluate through an engineering report the existing telecommunication facilities and structures 80 feet or greater in height within a one (1) mile radius of the proposed facility when located in a designated Service District of the Comprehensive Plan.

Elsewhere in the County, the applicant shall evaluate through an engineering report the facility and structure locations, 80 feet or greater in height, within a two (2) mile radius of the proposed facility. Technological, physical, and economic constraints may be considered in determining site feasibility.

Collocation may be determined not to be feasible in the following situations:

- (a) The planned equipment would exceed the structural capability of existing and approved telecommunications facilities, considering existing planned use of those facilities, and such facilities cannot be reinforced to accommodate planned or equivalent equipment at a reasonable cost;
 - (b) The planned equipment will cause interference with other existing or planned equipment for that telecommunication facility, and that interference cannot be prevented at a reasonable cost;
 - (c) Existing or approved telecommunication facilities do not have space on which planned equipment can be placed so as to provide adequate service; and
 - (d) Existing and approved telecommunication facilities will not provide adequate signal coverage.
- (5) In addition to those entitled to notice under the provisions of the Zoning Ordinance, all owner(s), or their agent(s), of all properties abutting or immediately and diagonally across the street or road from those properties whose owners are entitled to notice under Section 13-111, shall be provided with the same written notice. The applicant is also encouraged to meet with community and homeowner associations and groups in the area.
- (6) The carrier shall provide a copy of Form 600 on file with the FCC, and its FCC license (Radio Authorization Form).
- (7) The application shall show relationship to other personal wireless service facilities, including those existing and proposed by the carrier/applicant. The nearest existing

sites for other carriers in at least four directions (north, south, east and west), as well as those proposed by other carriers on file in Fauquier County and with VDOT.

11-103

Landscaping and Buffer Requirements. The following landscaping and buffering requirements shall apply to all telecommunication facilities.

1. Security Fencing. Facilities shall be enclosed by security fencing not less than six (6) feet in height.
2. Landscaping. The telecommunications facility shall be landscaped with a mix of hedge and trees to screen internal communications buildings from adjacent properties. The standard buffer should consist of an area 10 feet in width outside of the fenced area. Plantings will comply with Zoning Ordinance landscaping requirements.
3. Existing mature tree growth and natural land forms onsite shall be preserved to the maximum extent possible. In special exception applications, the Board of Supervisors may determine that the natural growth surrounding the property perimeter may be sufficient as the required buffer.
4. Existing trees within 200 feet of the telecommunications tower or monopole shall not be removed, except as may be authorized to permit construction of the facility and installation of vehicular access.

11-104

Modifications. Buffer yard requirements may be waived or modified by the Zoning Administrator in any of the following circumstances, excluding approved special exception and special permit conditions. The Zoning Administrator may attach conditions to any waiver or modification in order to assure that the results of the waiver or modification will be in accordance with the purpose and intent of this Section.

1. The Zoning Administrator may waive, reduce and/or modify buffer yard requirements if demonstrated that the topography of the lot providing buffer yard and the lot being protected is such that the required buffer yard would not be effective.
2. The Zoning Administrator may waive, reduce or modify buffer yard requirements for any public use when such use has been specifically designed to minimize adverse impact on adjacent properties.

- 11-105 Maintenance.**
1. The owner, or his agent, shall be responsible for the maintenance, repair and replacement of all required landscape materials and screening and buffering as may be required by the provisions of this Section.
 2. All plant material shall be tended and maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris.
 3. Fences and walls shall be maintained in good repair. Openings within the barriers may be required by the Zoning Administrator for accessibility to an area for necessary maintenance.
- 11-106 Bond/Cash Deposit Requirements.** In lieu of installation of the landscape materials prior to occupancy, the applicant may post a bond acceptable to the County, conditioned upon satisfactory installation of the landscaping proposed in the landscape plan.
- 11-107 Removal of Abandoned Antennas and Towers**
1. Annual Report. The owner of each antenna or tower shall submit a report to the Zoning Administrator once a year, no later than July 1. The report shall state the current user status of the tower.
 2. Antenna and Tower Removal. Any antenna or tower shall be disassembled and removed from the site within ninety (90) days of the discontinuance of the use of the tower for wireless telecommunications purposes. Removal includes the removal of the antennas, telecommunications towers, fence footers, underground cables and support buildings. The buildings and foundation may remain with the landowner's approval. If there are two (2) or more users of a single tower, then this provision shall not become effective until all users cease using the tower.
- 11-108 Appeals.** Any person aggrieved by a decision of the Zoning Administrator may appeal such decision in accordance with the provisions of Section 13-300.
- 11-109 Planning Commission.** On any application for a telecommunication facility pursuant to Section 15.2-2232(F) of the Code of Virginia, the Planning Commission's decision shall comply with the requirements of the Federal Telecommunications Act of 1996. Failure of the Commission to act on any such application for a telecommunications facility under Subsection A submitted on or after July 1, 1998, within ninety days of such submission, shall be deemed approval of the application by the Commission, unless the Board of Supervisors has authorized an extension of time for consideration or the applicant has agreed to an extension of time.

The Board may extend the time required for action by the local Commission by no more than sixty additional days. If the Commission has not acted on the application by the end of the extension, or by the end of such longer period as may be agreed to by the applicant, the application is deemed approved by the Commission.